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JAMES L. MACKLIN

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re

JAMES L. MACKLIN,

Debtor.

Case No.: 2010-44610

DC NO. HSB-01

**DEBTOR'S OPPOSITION TO MOTION
FOR RELIEF OF AUTOMATIC STAY
(UNLAWFUL DETAINER)**

Date: December 9, 2010
Time: 1:00 P.M.
Dept: E – Courtroom - 33
Address: 501 I St., Sacramento, Ca

HON. RONALD H. SARGIS

Deutsche Bank National Trust Co. (hereinafter, "Deutsche"), has requested an Order of this Court granting relief from the Stay under 11 U.S.C. §362(a). Deutsche filed its unlawful detainer action in state court though it does not have standing to bring the unlawful detainer suit, as it has no valid right, title or interest in the subject property. Debtor opposes this Motion as being factually defective, as Deutsche lacks standing as the true creditor or real party in interest, and for all of the reasons submitted before this Court as follows:

INTRODUCTION

1. Based on documents obtained by the Debtor, Debtor believes and takes the position that the note and deed of trust on Debtors property was conveyed to a tax-free securitized mortgage trust at

1 the time of the execution of the Deed of Trust by Debtor. Debtor believes that the note and Deed of
2 Trust still reside, (were unlawfully conveyed, and therefore cannot possibly be an asset) in said trust.
3 Debtor's note and deed of trust was conveyed to the Accredited Mortgage Loan Trust 2006-2 ("LOAN
4 TRUST") on or about April 28, 2006. This trust allegedly holds the subject property loan rights. (See,
5 Evidence of Trust attached as **Exhibit "A"** to the Declaration of James Macklin.)

6 2. The trust is governed by the Accredited Mortgage Loan Trust 2006-2 Master Sales and
7 Servicing Agreement ("MSSA"), (See **Exhibit "B,"** attached to the declaration of James Macklin.)
8 This trust allegedly holds the subject property loan rights (See, Evidence of Trust attached as **Exhibit**
9 **"A"** to the Declaration of James Macklin). Deutsche Bank, as Indenture Trustee, is merely a special
10 Corporate Trustee with limited ministerial duties, as opposed to a common law trustee with fiduciary
11 duties and responsibilities and, therefore, cannot be harmed at law or in equity as they are not a Real
12 Party in Interest and have never had any pecuniary or financial interest in the subject property, nor
13 have they been authorized to act in any remedial action(s) by majority vote of the investors.
14 According to the terms of the MSSA, Deutsche has never showed authorization by the voting majority
15 of the Investors of Accredited Mortgage Loan Trust 2006-2, the true "Creditor(s), as mandated by the
16 language of section(s) 10.02 (a)(b)(c) and 7.01 et. seq. of the Master Sales and Servicing Agreement).
17 Deutsche merely relies upon defective and false documents filed within state court and the Placer
18 County Recorder's Office which are presumed to be authoritative, but which, upon inspection by this
19 Court, shall evidence the fatally defective and false nature of these documents.

20 3. Debtor has ownership interest rights and possession of the subject property and has
21 never given up those rights either expressed or implied. Debtor would be irreparably harmed through
22 the loss of his unique and valuable property and has the only verifiable equitable interest in the
23 property between the two parties to this action. Deutsche is nothing more than a "Fictitious Payee"
24 under the law.

25 4. David Boyer, Robert J. Jackson and Associates ("Boyer") counsel for Deutsche in his
26 declaration, never offers any proof with admissible evidence, that the parties attempting to assign or
27 convey rights to affect the subject property in fact, have the right to do so. The documents relied upon
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1 by Deutsche are false, null and void for the reasons stated herein. Mr. Boyer only identifies them as
2 being recorded. A simple review of the Exhibits used by Mr. Boyer reveal violations of law, with
3 attendant criminal and civil penalties as alleged herein. (See **Exhibit "C 1-3,"** Placer County
4 Recorder's Office documents on the subject property, attached to the declaration of James Macklin.)

5 **FACTUAL BACKGROUND**

6 5. On or about September 27, 2010, Deutsche Bank filed a Motion for Relief from
7 Automatic Stay under 11 U.S.C. § 362 without Proof of Claim in the Bankruptcy Case, asserting that
8 said claim is secured by a lien against real property belonging to Debtor located at 10040 Wise Road,
9 Auburn, CA 95603 which is Plaintiffs' residence (hereinafter "the Property"). Deutsche refiled the
10 current motion for relief from stay on November 12, 2010. Attached to the motion for Relief from
11 Automatic Stay was a copy of a Trustee's Deed Upon Sale, between grantor QAULITY LOAN
12 SERVICE CORPORATION and grantee Deutsche, showing transfer tax of \$0.00, and claiming that
13 grantee paid \$342,550.24 for the property. Debtor believes this alleged sale was a credit bid and that
14 Deutsche actually paid no money for the property.

15 6. Although there was a purported assignment of the original lender Accredited Mortgage
16 Home Lender's Inc. (Accredited) Deed of Trust, Debtor is informed and believes that such assignment
17 was not done by Accredited but fraudulently conveyed. Deutsche did not attach the complete County
18 Recorder record on the subject property to its motion for relief from stay, nor did it attach the complete
19 County Recorder record to its unlawful detainer suit. It only attached the Trustee Deed upon sale
20 mentioned in paragraph 5 above, and the state court unlawful detainer suit. None of the other
21 assignments and/or substitutions are attached to either the motion or the unlawful detainer suit. (See
22 **Exhibit "C,"** Placer County Recorder's Office documents on the subject property, attached to the
23 declaration of James Macklin.) Debtor maintains the reason for this is that Deutsche knows and admits
24 all those documents are false and fraudulent.

25 7. Based on the original deed of trust, Accredited is the lender, the trustee was Financial
26 Title Company, and Mortgage Electronic Registration System was the nominee beneficiary of
27 Accredited. (See, **Exhibit "G,"** Deed of Trust, attached to the declaration of James Macklin.)
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1 8. Deutsche is a stranger to the transaction, having no relationship with Accredited.
2 MERS (who has no assignment from Accredited) purportedly assigned the Accredited Deed of Trust
3 to Deutsche as nominee which assignment of Deed of Trust (See, **Exhibit "C-3,"** Corporate
4 Assignment of Deed of Trust, to the declaration of James Macklin) was **NOT** recorded until
5 November 30, 2009, which is **AFTER** notice of default which was filed on December 8, 2008 by
6 some entity known as WINDSOR MANAGEMENT COMPANY. (See **Exhibit "D,"** Notice of
7 Default, attached to the declaration of James Macklin.

8 9. Pursuant to IRS Code 860D (a)(4), the asset Note must be conveyed into the REMIC
9 Trust within 90 days of the closing date, June 1st, 2006 in this case. If the Deed "follows the note", this
10 is an impossibility under the evidence provided by Deutsche Bank. This alleged action by Deutsche
11 would effectively either dissolve the tax free status of the REMIC Trust which allegedly holds the
12 beneficial interest, or, under the laws of the State of New York, under which the REMIC Trust is
13 established pursuant to § 10.16 of the Master Sales and Service Agreement of the Trust, it could **not**
14 have been lawfully conveyed after the closing date of the trust.

15 10. As set forth in the Motion for Relief from Automatic Stay filed by Deutsche Bank on or
16 about September 21, 2010, Deutsche Bank asserts that it is the rightful owner under the Trustee Deed
17 of Sale from some entity known as QALITY LOAN SERVICE CORPORATION as trustee.

18 11. MERS purportedly acted as nominee for Accredited under fraudulent assignment of the
19 Deed of Trust to QALITY LOAN SERVICE CORPORATION on November 25, 2009, (See **Exhibit**
20 **"C-2"**) having no interest in the promissory note, assigning such deed of trust to Deutsche Bank.
21 MERS was never a party to the transaction, or entitled to payment from Plaintiffs. In fact MERS has
22 already fraudulently assigned the Deed of Trust to another entity BEFORE it allegedly assigned to
23 QALITY LOAN SERVICE CORPORATION. (See **Exhibit "C-1"**).

24 12. Plaintiffs are informed and believe that MERS is not a nominee with Power of Sale
25 under the ACCREDITED Deed of Trust and fraudulently assigned ACCREDITED Deed of Trust
26 Deutsche Bank and, that MERS never had any interest in the ACCREDITED Deed of Trust or the
27 promissory note secured thereby.

1 13. Deutsche Bank's fraudulent claim under the ACCREDITED Deed of Trust is entirely
2 unsecured and there is no security that attaches to the ACCREDITED Deed of Trust.

3 14. In this case, foreclosure has been filed, the entity filing the foreclosure has no pecuniary
4 interest in the mortgage loan. The foreclosing entity, Deutsche, is a third party. The entity lacks
5 standing and the capacity to foreclose. The entity has no first hand knowledge of the loan, no
6 authority to testify or file affidavits as to the validity of the loan documents or the existence of the
7 loan. The entity has no legal authority to draft mortgage assignments relating to the loan. The
8 foreclosing entity and its agents regularly commit perjury in relation to their testimony.

9 15. In Fact ACCREDITED, the "Lender", on the original Promissory Note was not the
10 lender. The originators of the loan immediately and simultaneously allegedly securitized the note
11 through the means of conversion of an U.C.C. Article III negotiable Instrument into U.C.C. Article
12 VIX, non-negotiable paper. The beneficial interest in the note was never in the lender. In this case,
13 MERS, acting as nominee for ACCREDITED under the assignment of ACCREDITED Deed of Trust,
14 was never intended to be the assignee of the mortgage loan. The Servicer, QUALITY LOAN
15 SERVICE CORPORATION, who acted as trustee for the sale, was and is not in privity with the
16 lender. The true owner or beneficiary of the mortgage loan has not declared a default, cannot declare a
17 default under its' Trust Agreement, and does not have an interest in the Note that allows for any
18 remedial actions to be undertaken by the Beneficial Interest Holder(s).

19 16. Debtor is informed and based on information and belief alleges the obligations reflected
20 by the note allegedly secured by assignment of ACCREDITED Deed of Trust to MERS have been
21 satisfied in whole or in part because the investors who furnish the funding for these loans have been
22 paid to the degree that extinguishments of the debts has occurred with the result that there exist no
23 obligations on which to base any foreclosure on the property owned by Plaintiffs. (See **Exhibit "E,"**
24 the loan level file, attached to the declaration of James Macklin.) **Exhibit "E"** shows the Debtor's
25 loan to be at \$0.00. Defendants have and continue to cloud the title and illegally collect payments and
26 attempt to foreclose upon the property of the Plaintiffs when they do not have lawful rights to
27 foreclose, and are not holders-in-due-course of the notes.

1 17. The mortgage loan assigned to MERS, as nominee, is, at most, an unsecured debt. The
2 only parties entitled to collect on the unsecured debt would be the holder-in-due-course and beneficial
3 owner(s) of the original Promissory Note, the original "Lender of Record", *if* the asset is still booked
4 as an asset and has not been sold and de-recognized as an asset under FASB 140.

5 18. Certain individuals who were the employees of the Servicer QUALITY LOAN
6 SERVICE CORPORATION, and even the employees of the law firms, executed and notarized forged
7 documents as to the ownership of the loan. The affiants have committed counts of fraud, perjury and
8 forgery of the mortgage loan.

9 19. Deutsche, represented itself as a "Deutsche Bank National Trust Company, as Indenture
10 Trustee" are coming to Court and are actually not common law Trustees, rather, they are special
11 Corporate Trustees with limited ministerial duties. These rights, duties and obligations do not include
12 any remedial actions as they relate to the assets of the REMIC Trust (See **Exhibit "B,"** the Master
13 Sales and Servicing Agreement ("MSSA") attached to the Declaration of James Macklin, *Trustees'*
14 *Rights and Duties* § 3.04, 7.01 et.seq, 10.02. and 10.16). Unless Deutsche as the Indentured Trustee
15 has actual knowledge of a default, it cannot act. (See **Exhibit "F,"** The Indenture, §6.01and §6.01(d),
16 attached to the declaration of James Macklin). By the terms of the Indenture, Deutsche is prohibited
17 from any action including foreclosure.

18 20. Importantly, Deutsche, as "Trustee" or custodian, must have the mortgages recorded in
19 the investors name as the beneficiaries of the MBS within 90 days of the "closing date" (*IRS Rule*
20 *860D (a)(4)*), as defined within the REMIC Trust Agreement. Every mortgage in the MBS should
21 have been publicly recorded in Placer County where the property is located with a mortgage in the
22 name of "Accredited Mortgage Loan Trust 2006-2, under the pooling and servicing agreement dated
23 June 1, 2006." Such mortgage would have had been publicly recorded in the year 2006.

24 21. The loan servicers like WINDSOR MANAGEMENT COMPANY and QUALITY
25 LOAN SERVICE CORPORATION, are merely administrative entities, under limited power of
26 attorney, which collect the mortgage payments and escrow funds. The Servicer has no greater power
27 than its' Principal, the Trustee, (without the express voting majorities' authorization by majority vote,
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signed individually, under penalty of perjury), and lacks the authority to bring any action on behalf of the REMIC Trust. The Indenture Trustee, Servicer, Issuing Entity (REMIC Trust), Depositor, Underwriter, have executed Trust Agreements, under oath, with the Security Exchange Commission ("SEC"), and the Internal Revenue Service ("IRS"), as mortgage asset "pass-through" entities wherein they can never own or manage the mortgage loan assets in the MBS. This allows them to qualify as a Tax Free Real Estate Mortgage Investment Conduit ("REMIC") rather than an ordinary Real Estate Investment Trust ("REIT"). As long as "AMLT 2006-2" is a qualified REMIC, no income tax will be charged to the trust.

22. The promissory note was never conveyed pursuant to the Trust mandates and the mortgages were never conveyed or recorded pursuant to the proper chain of custody and Assignment within the Trust Agreement(s).

23. In this scenario, even if the foreclosing entity produces a copy of a note, or even an alleged original, the mortgage loan was not conveyed into the trust under the requirements of the prospectus for the trust or the REMIC requirements of the IRS. Mere possession of an Instrument does not confer the status of a person entitled to enforce the Instrument.

24. Consequentially, the end result is that the required MBS asset, or any part thereof (mortgage note or security interest), was not legally transferred to the trust to allow the trust to ever be considered a "holder" of a mortgage loan. Neither the "Trust" nor the Servicer QUALITY LOAN SERVICE would ever be entitled to bring a foreclosure or declaratory action. The Trust will never have standing or be a real party in interest before this Court.

25. The transfer of mortgage loans into the Trust in which Deutsche Bank is the Trustee after the "cut off date" (in this case 2006), destroys the trust's REMIC tax exempt status, and this trust would owe millions of dollars to the IRS and the State of California as the income would be taxed at of one hundred percent (100%), if the Court were to find in favor of the Defendant(s). In this scenario, the Court would be obligated to report to the IRS and the SEC the findings of the Court so that immediate financial sanctions and possible criminal charges could be brought against the Defendant(s).

1 26. Subsequent to the "cut off date" listed in the prospectus, whereby the mortgage notes
2 and security for these notes had to be identified, and the Note and Mortgages transferred, within 90
3 days, and thereafter, the pool is permanently closed to future transfers of mortgage assets.

4 27. Defendants fraudulently conveyed Plaintiffs' mortgage loan, which fraudulently
5 recorded on or about November 29, 2009 in an attempt to transfer a Mortgage Assignment into a
6 REMIC after that REMIC's "cut off" and "closing dates".

7 28. Therefore, the lack of lawful acquisition of Debtor's mortgage loan violates the
8 prospectus presented to the investors and the IRS REMIC requirements.

9 29. Debtor was the victim of a predatory loan. Debtor signed a Promissory Note and Deed
10 of Trust. By doing so, Debtor was unknowingly converting his property into an alleged asset of a
11 Mortgage backed security ("MBS"), while his credit and signatures were used to sell securities without
12 his consent or knowledge of the terms and conditions of the contract. Debtor was never informed of
13 the nature of the scheme. They were deliberately induced into signing a Negotiable Instrument which
14 was never intended as such, but intended as collateral for a MBS.

15 30. The fact that this loan was meant to fund a MBS was a "Material disclosure" which was
16 deliberately and intentionally undisclosed. The failure to disclose the identity of the true lender at
17 closing was also a "material disclosure"; the nature of which would make the contract voidable under
18 California contract law.

19 31. As required by SEC, this MBS/Trust has a Master Sales and Servicing Agreement
20 ("MSSA") (**Exhibit "B"**) which is dated June 1, 2006 and must be publicly filed. The only purpose
21 for the MSSA is for the administration and distribution of funds to the investors and the obligation of
22 the so called Trustee in administering the MBS. The investors who put up money for the MBS and
23 who received the MBS certificates or Bonds, are purported to not be parties to the MSSA. However,
24 under the Step Transaction Doctrine, as adopted by the Courts, these transactions are interdependent of
25 one another and interrelated and, therefore, fall under the scope of a "single transaction", as defined by
26 the Doctrine. The Borrowers and the Investors are the true Principals to the transaction, with the only
27 financial and pecuniary interest in the transaction(s).

32. The MSSA merely sets forth what happens after the mortgages are bundled together. However, the MSSA also sets forth a ***Cut-Off Date***. The cut-off date is the date on which all mortgage loans in the MBS/Trust must be identified and set out in the SEC required list of mortgage loans.

33. Like the cut-off date, this MBS/Trust had a ***Closing Date***. The Closing Date is the date that the individually identified mortgages were to be transferred through the Custodian for the benefit of the investors. The Trust Custodian must certify that for each mortgage loan, the Trust Custodian has possession of the original Promissory Note, all original endorsements and assignments transferring the Note and proof that the ownership of the Note has been lawfully transferred for the benefit of the investors. Further proof of the ownership of a mortgage loan is required by a public recording of the Mortgage or Assignment of the mortgage itself. This MUST have occurred by the closing date. Because of this closing date, there MBS or Deed of Trustee of Debtor could **not** thereafter be assigned.

34. In this case, Debtor's mortgage was never part of MBS scheme as Deutsche Bank represented to the Court because alleged assignment of the mortgage loan into the trust did not occur until on or about November 25, 2009; wherein the MBS closing date was sometime in 2006.

35. Deutsche Bank, as MBS trustee, claims to be acting on behalf of the MBS/Trust and claims that it has acquired the loan from MERS, who was not the party in ACCREDITED deed of trust. The multiple transfers of title of the mortgage loan between the originator, ACCREDITED and the MBS/Trust is simply ignored as it can never be proved or shown to the Court. Chain of Mortgage assignment is broken as Deutsch and QUALITY LOAN SERVICE CORPORATION were never the mortgagee of record under a Mortgage Assignment and has absolutely no legal tie to the investors in the MBS.

36. The assignment of Debtor's mortgage was signed and notarized many years after the actual date of the loan and the date listed with the SEC and IRS as the "Closing" of the REMIC. In this case, if found to be true, this MBS/Trust has been operating illegally as a tax exempt REMIC.

37. Here, the Note and Mortgage were severed or de-coupled when the ACCREDITED deed of trust was fraudulently assigned to MERS as nominee for Accredited. Accredited never loaned

any money to the Plaintiffs. MERS was never a beneficiary under the Note. MERS purportedly held the Mortgage as "nominee" for Accredited, an assignee of fraudulently conveyed deed of trust. Since then, the only party who could authorize the mortgage assignment for a bankrupt mortgage assignee would be the Bankruptcy Trustee. In this case, MERS, Inc. has been assigned on behalf of a bankrupt entity, a criminal violation of the bankruptcy code.

38. An assignment from MERS was a legal nullity. MERS never had an interest in this fraudulently conveyed mortgage and Note.

39. MERS assigned mortgage was prepared by an agreement between the Defendants. These Defendants used false information regarding the individuals executing such mortgages and assignments, holding such individuals out to be officers of MERS.

40. Defendant Deutsche Bank filed and caused to be filed MERS mortgage and assignments of mortgage in the public record and provided these false documents to prove chain of title that does not exist to the Court as part of its Motion for Relief from Automatic Stay.

MEMORANDUM OF POINTS AND AUTHORITIES

41. Proper transfer of a deed of trust is controlled by California Civil Code §2934(a)(1)(2) et. seq., which provides:

“The trustee under a deed of trust upon real property [...] may be substituted by the recording, in the county in which the property lies, of a substitution executed and acknowledged by: (A) all of the beneficiaries under the deed of trust, or their successors in interest.. or, (B) the holders of more than 50% of the record beneficial interest of a series of notes secured by the same real property...”.

42. Because Deutsche, is precluded from enforceability of the subject Deed by the language of the controlling Trust Indenture and Master Sales and Servicing Agreement, executed by them and filed for record with the United States Securities and Exchange Commission (Accredited Mortgage Loan Trust 2006-2 Asset-Backed Notes, June 1, 2006, (See **Exhibit “A”**) they lack standing as a real party in interest and cannot represent the beneficial interest of the true creditor(s) of this subject property. The series “Accredited Mortgage Loan Trust 2006-2” certificate holders, individually and in

1 their 50% voting majority, must sign and authorize, under penalty of perjury, to ratify the
2 commencement of this, and any actions brought by Deutsche.

3 43. Deutsche has violated the laws of California, Cal. Penal Code §115.5, by knowingly
4 placing into the Public Record documents which it knew to be false (Debtor's Ex. "1 A-1" through "1
5 A-4"). Deutsche and County employees relied upon these false filings and moved an action known as
6 Unlawful Detainer against Debtor with the intent of separating Debtor from his property under color of
7 law.

8 44. The Substitution of Trustee relied upon by Deutsche was executed by "Mortgage
9 Electronic Registration Systems, Inc." ("MERS"), as nominee of Accredited Home Lenders, Inc., the
10 "lender of record". Because MERS never owned the Note or the Deed, nor did MERS give any
11 consideration, MERS could not pass any beneficial interest to any party.

12 **Improprieties in Recordings**

13 45. The Substitution also was executed on Jan. 30, 2008, yet never signed until March 4,
14 2009. Debtor's Ex. "1 A-2" evidences a Substitution of Trustee, executed by "Wayne Hessler",
15 alleged Duly Appointed Officer of Deutsche, Deutsche Bank National Trust Co., as Indenture Trustee
16 on behalf of the holders of the Accredited Mortgage Loan Trust 2006-2 Asset-Backed Notes by Select
17 Portfolio Servicing, Inc. as Attorney in Fact. This document was executed on 8/21/2009 and therefore
18 must contain qualified signatures at the time of signing. Deutsche, however, did not receive any
19 Assignment of the Deed until 11/30/2009, as evidenced by Debtor's "Ex. 1A-3"(Corporate
20 Assignment of Deed of Trust).

21 46. It is important to understand that Deutsche was required to have possession of the Note
22 and Deed by the "cut-off date" June 1st, 2006, as filed in the Trust Agreements with S.E.C ("Ex. 2-A),
23 in order for the REIT and subsequent REMIC Trusts to be valid. A physical and legal impossibility
24 exists as to the location and assignment of the subject Note and Deed. Since the original Lender,
25 ACCREDITED, filed for Bankruptcy in April, 2009, MERS, as Nominee, could not have assigned any
26 asset during the pendency of the bankruptcy. Thus, Deutsche did not have the authority to execute the
27 Substitution of Trustee on 8/21/2009, thereby nullifying the Substitution. The Trustee's Deed Upon
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1 Sale, predicated upon the previously exhibited defective documents and is therefore a nullity and
2 carries with it no authority.

3 47. Since there was an alleged conversion of the mortgage loan Note into a security,
4 conferring "creditor" status upon the investors of "AMLT 2006-2", the "Sale and Servicing
5 Agreement," (**Exhibit "B"**) is the controlling document for the chain of title to the subject Note and
6 Deed of Trust and must be strictly comported to by Deutsche in order for the "AMLT 2006-2 Trust" to
7 be valid.

8 48. Page (3) Article II of **Exhibit "B"** evidences the actual "critical path" that the mortgage
9 loan Note *and Deed of Trust* must have traveled in order to comply with the S.E.C. filing. Notice that
10 the Note was sold by: (1) Accredited Home Lenders, Inc.(Sponsor) to the Depositor (Accredited
11 Mortgage Loan REIT Trust), (2) then sold again by the Depositor to the Issuing Entity ("AMLT 2006-
12 2"), (3) then the mortgage loan Notes were "*pledged*" by the Issuing Entity to the Indenture Trustee,
13 Deutsche Bank, without recourse. This form of funding is known as "table-funding," and is presumed
14 to be predatory under 28 U.S.C. 226 (Reg. Z and Truth in Lending Act). Since there was at least one
15 (1) undisclosed third party to the contract, the Borrower had no opportunity to know the true source
16 and terms of the funds and, therefore, the Note does not describe the Real Parties and is not evidence
17 of the Obligation. Third party claims against Debtor could arise as a result of this type of funding.
18 None of these assignments is reflected within the recorded filings at the County of Placer's Office, nor
19 was Debtor ever timely notified of a transfer of his Note pursuant to Reg. Z, 12 CFR 226.36 and 15
20 U.S.C. § 1641(g).

21 49. This represents a split of the Note and Deed of Trust and, therefore, nullifies the Deed
22 of Trust. Without the "Power of Sale" clause within the deed, Deutsche has executed an intentionally
23 fatal and false uttering upon the Court and did so with full knowledge of their trust agreements dated
24 June 1, 2006.

25 50. Under the "Step Transaction Doctrine", as adopted by the Courts, the transactions cited
26 herein known as the loan agreement and the underlying securitization documents, are reliant upon one
27 another and are interrelated. They pass the three test rule and are, therefore, one transaction. The
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proceeds of the sale of securities were used by Deutsche and its affiliates, knowingly and with intent, to pay out undisclosed fees to interrelated parties, secure various insurances and credit enhancements, thus creating undisclosed profits, and to fund the mortgage loans without the knowledge of the Borrower. This also represents a serious violation of disclosure; the Borrower never had an opportunity to understand the true character of his loan nor the indispensable parties to the transaction. *Shuwa Investment Corp. v. County of Los Angeles* (1991) 1 Cal. App. 4th 1635, 1648-1649; *Shuwa, Supra* at p. 1648 [End Result Test, Interdependence Test, Binding Commitment Test]. Only one test needs to be satisfied for the step transaction doctrine to apply (*McMillim-BCED/Miramar Ranch North v. County of San Diego* (1995) Cal. App. 4th 545, 556).

51. The Debtor's legal and equitable rights to the subject property have never been extinguished. Under 11 U.S.C. §541(a)(1), Debtor, Macklin, has all rights reserved there under and opposes Deutsche's legal conclusion of duly perfected title as being without merit and relying upon false and substantively misleading documents, as evidenced herein. These documents were filed with a Court and the County Recorder's Office with the intent that a Homeowner would become indebted to a specific party not entitled to such and that ownership interest would be conveyed to Deutsche herein without lawful cause.. The Title was never Duly Perfected in Deutsche Bank under the laws of the State of California or under the laws of the United States.

52. The original lender issued a predatory loan to Debtor. Deutsche Bank claims that ("Ex. 2-B" pg. 6 (m)), each loan within the "AMLT 2006-2" trust complied with all state, federal, local laws and regulations including Truth In Lending and other consumer protection laws, and disclosure and recording laws.

53. In fact, Debtor's Uniform Residential Loan Application was intentionally falsified by persons unknown to Debtor as to the "Year Acquired" (Debtor acquired the property in March, 2005), "Years on the Job and Yrs. Employed in this field" (Debtor was employed in his field for three yrs. And only held his Contractor's License for two yrs., as verified by the Broker/Lender), Pg. 2, the "Yr. Acquired is different from the first pg., indicating a "seasoning" issue for the approval of a loan for the lender, Pg. 3: the lender shows Debtor's "Base Monthly Income" as \$29,363.03. This is a false

1 representation made and accepted by the Lender. Pg. 10 clearly shows Debtor's verified taxable
2 income to be \$7,034.75 per month, a difference of \$22,328.28. This is Predatory Lending in its most
3 egregious and blatant form. Deutsche's alleged agents also falsified assets on the same pg. 3 under
4 cash on hand column as \$65,000.00 in Debtor's Wells Fargo bank account. This money was never
5 there...ever. Pg. 5 of the same Exhibit shows that the property was valued at \$615,000.00. Since a first
6 and second mortgage were executed by Debtor with the same "Lender" in the amount of \$659,000.00,
7 this creates a loan which exceeds the amounts allowed to be loaned based upon the property value. At
8 the bottom of the pg. 5, the court should note that the interview was conducted by telephone and
9 Debtor was never privy to the information being inserted into this, or any other application forms used
10 by Deutsches' agents and affiliates. On pg. 10, the "Underwriting Transmittal Summary" used by the
11 Lender, the appraised value has suddenly changed from \$615,000.00 to \$665,000.00.

12 54. These loan-to-value ratios are exactly what they need to be in order for the loan to be
13 accepted into the mortgage loan trust. This is fraudulent and deceptive lending practices executed with
14 knowledge and intent by the Deutsche and it's affiliate lender, Accredited Home Lenders, Inc., as
15 exhibited in the Trust Indenture and Sales and Servicing Agreement as filed with the S.E.C. June 1,
16 2006.

17 55. Deutsche's claim of holding beneficial interest cannot be valid for all of the reasons
18 stated herein, therefore, Deutsche has no right to their Motion to Lift Stay in the Bankruptcy case.

19 Dated: December 7, 2010

Respectfully submitted,

20 LAW OFFICES OF HOLLY S. BURGESS

21
22
23 By: /s/ Holly S. Burgess
HOLLY S. BURGESS